

103D CONGRESS
2D SESSION

H. R. 5008

To Combat Crime.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 21, 1994

Mr. BREWSTER (for himself, Mr. HUNTER, Mr. PETE GEREN of Texas, Mr. COX, Mr. PETERSON of Minnesota, Mr. MCINNIS, Mr. TAYLOR of Mississippi, Mr. BAKER of California, Mr. TAUZIN, Mr. BARTLETT of Maryland, Mr. PARKER, Mr. BOEHNER, Mr. BROWDER, Mr. BONILLA, Mr. CHAPMAN, Mr. BUNNING, Mr. DEAL, Mr. BURTON of Indiana, Ms. DANNER, Mr. CALLAHAN, Mr. TANNER, Mr. MANZULLO, Mr. STENHOLM, Mr. COLLINS of Georgia, Mr. SARPALIUS, Mr. ARMEY, Mr. HALL of Texas, Mr. CRANE, Mr. VALENTINE, Mr. DOOLITTLE, Mr. ORTON, Mr. DUNCAN, Mr. HUTTO, Ms. DUNN, Mr. MONTGOMERY, Mr. EMERSON, Mr. RAHALL, Mr. EVERETT, Mr. CONDIT, Mr. EWING, Mr. ROWLAND, Mr. GILMAN, Mr. WILSON, Mr. HANCOCK, Mr. HOLDEN, Mr. HEFLEY, Mr. TEJEDA, Mr. HERGER, Mr. CRAMER, Mr. HOEKSTRA, Mr. BARCIA of Michigan, Mr. ALLARD, Mr. DICKEY, Mr. HYDE, Mr. KLINK, Mr. KIM, Mr. HAYES, Mr. KINGSTON, Mr. STUPAK, Mr. KYL, Mr. LAUGHLIN, Mr. LEWIS of Florida, Mrs. THURMAN, Mr. LINDER, Mr. PETERSON of Florida, Mr. LIGHTFOOT, Mr. MURPHY, Mr. CALVERT, Mr. SKELTON, Mr. MCCOLLUM, Mr. DE LA GARZA, Mr. BACHUS of Alabama, Mr. DARDEN, Mr. MCKEON, Mr. ORTIZ, Mr. MOORHEAD, Mr. VOLKMER, Mr. PACKARD, Mr. SWETT, Mr. QUILLEN, Mr. COOPER, Mr. ROHRABACHER, Mr. MOLLOHAN, Mr. SCHAEFER, Mr. WISE, Mr. SHAW, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. STEARNS, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. ZELIFF, Mr. FIELDS of Texas, Mrs. BENTLEY, Mr. LUCAS, Mr. GOSS, Mr. WALKER, Mr. BARTON of Texas, Mr. HOBSON, Mr. INHOFE, Mr. GINGRICH, Mr. ROBERTS, Mr. SENSENBRENNER, Mr. PAXON, Mr. KNOLLENBERG, Mr. BUYER, Mr. DELAY, Mr. POMBO, Mr. HOKE, Mr. TALENT, Mr. ISTOOK, Mr. GILLMOR, Mr. COBLE, Mr. LIVINGSTON, Mr. GRAMS, Mr. SAM JOHNSON of Texas, Mr. MCCRERY, Mr. SANTORUM, Mr. THOMAS of Wyoming, Mr. MILLER of Florida, Mrs. VUCANOVICH, Mr. CUNNINGHAM, Mr. DORNAN, Mr. SUNDQUIST, Mr. CRAPO, Mr. YOUNG of Alaska, Mr. GEKAS, Mr. SHUSTER, Mr. LEWIS of Kentucky, Mr. MYERS of Indiana, Mr. YOUNG of Florida, Mr. BAKER of Louisiana, Mr. HASTERT, Mr. DREIER, Mr. MICA, Mr. SPENCE, Mr. NUSSLE, Mr. GOODLATTE, Mr. BLILEY, Mr. PORTMAN, Mr. SCHIFF, Mr. HANSEN, Mr. LEWIS of California, Mr. SKEEN, Mr. SMITH of Oregon,

Ms. SNOWE, Mr. ROTH, Mr. CAMP, Mr. HUFFINGTON, and Mr. CANADY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To Combat Crime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Back-To-Basics Crime Control Act of 1994”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—GRANTS FOR CORRECTIONAL FACILITIES

Sec. 101. Grants authorized.

Sec. 102. Truth in Sentencing Incentive grants.

Sec. 103. Limitation of funds.

Sec. 104. Definitions.

TITLE II—STATE AND LOCAL LAW ENFORCEMENT GRANTS

Sec. 201. Grants authorized.

TITLE III—PROTECTION AGAINST SEXUALLY VIOLENT PREDATORS

Sec. 301. Definitions.

Sec. 302. Establishment of program.

TITLE IV—ELIMINATION OF UNNECESSARY AND REDUNDANT APPEALS; ENFORCEMENT OF DEATH PENALTY

Sec. 401. Period of limitation for filing writ of habeas corpus following final
judgement of a State Court.

Sec. 402. Authority of Appellate Judges to issue certificates of probable cause
for appeal in habeas corpus and federal collateral relief pro-
ceedings.

Sec. 403. Conforming amendment to the rules of appellate procedure.

- Sec. 404. Discretion to deny habeas corpus application despite failure to exhaust State remedies.
- Sec. 405. Period of limitation for federal prisoners filing for collateral remedy.
- Sec. 406. Special procedures for collateral proceedings in capital cases.

TITLE V—REFORM OF ‘EXCLUSIONARY RULE’

- Sec. 501. Reform of exclusionary rule.

TITLE VI—TRUTH-IN-SENTENCING

- Sec. 601. Release of prisoner.
- Sec. 602. Computation generally.

TITLE VII—PRISON WORK REQUIRED; LUXURIES ABOLISHED

- Sec. 701. Luxuries abolished.
- Sec. 702. Award of Pell Grants to prisoners prohibited.

TITLE VIII—IMPROVING BORDER CONTROLS

- Sec. 801. Grants for border control.
- Sec. 802. Expediting criminal alien deportation and exclusion.
- Sec. 803. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 804. Expansion in definition of ‘aggravated felony’.
- Sec. 805. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 806. Judicial deportation.
- Sec. 807. Restricting defenses to deportation for certain criminal aliens.
- Sec. 808. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 809. Miscellaneous and technical changes.
- Sec. 810. Authorization of appropriations for criminal alien information system.

TITLE IX—ENHANCED GUN PENALTIES

- Sec. 901. Enhanced penalties for persons convicted of using or carrying a firearm during and in relation to a felony.
- Sec. 902. Mandatory minimum sentence for unlawful possession of a firearm by convicted felon, fugitive from justice, addict or unlawful user of controlled substance, or transferor or receiver of stolen firearm.

TITLE X—VIOLENT CRIME REDUCTION TRUST FUND

- Sec. 1001. Creation of Violent Crime Reduction Trust Fund.
- Sec. 1002. Extension of authorizations of appropriations for fiscal years for which the full amount authorized is not appropriated.
- Sec. 1003. Flexibility in making of appropriations.

TITLE XI—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

- Sec. 1101. Mandatory life imprisonment for persons convicted of certain felonies.
- Sec. 1102. Limited grant of authority to Bureau of Prisons.

1 **TITLE I—GRANTS FOR CORRECTIONAL**
2 **FACILITIES**

3 **SEC. 101. GRANTS AUTHORIZED.**

4 (a) GRANT AUTHORIZATION.—The Attorney General
5 shall make grants to individual States to construct, ex-
6 pand, and improve prisons and jails.

7 (b) AMOUNTS AUTHORIZED.—Grants totalling
8 \$3,000,000,000 shall be made to each State not later than
9 October 30, 1994, and grants to each State totalling
10 \$3,000,000,000 shall be made annually thereafter in each
11 of the years from fiscal year 1996 through fiscal year
12 1998.

13 (c) GRANT ALLOCATION.—All such grants shall be
14 made without conditions imposed by the Federal Govern-
15 ment, notwithstanding any other provision of Federal law,
16 except to comply with the provisions of this title and that
17 the use of such funds shall be exclusively for the construc-
18 tion of prisons and jails. States shall be encouraged to al-
19 locate appropriate portions of their grants to local govern-
20 ments within their jurisdictions for the construction of
21 jails.

22 (d) AUTHORIZATION OF APPROPRIATION.—There are
23 authorized to be appropriated to carry out this title
24 \$3,000,000,000 for each of fiscal years 1995, 1996, 1997

1 and 1998. All such moneys shall be appropriated from the
2 Violent Crime Reduction Trust Fund.

3 (e) DISTRIBUTION OF FUNDS IN FISCAL YEAR
4 1995.—Of the total amount of funds appropriated under
5 this title in fiscal year 1995, there shall be allocated to
6 each State an amount which bears the same ratio to the
7 amount of funds appropriated pursuant to this title as the
8 number of part I violent crimes reported by the States
9 to the Federal Bureau of Investigation for 1993 bears to
10 the number of part I violent crimes reported by all States
11 to the Federal Bureau of Investigation for 1993.

12 (f) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1996
13 THROUGH 1999.—Seventy-five percent of the total
14 amount of funds appropriated under this title in fiscal
15 years 1996, 1997, and 1998, shall be allocated to each
16 State according to the formula established in subsection
17 (e) adjusted to reflect in each year the most recent data
18 from the Federal Bureau of Investigation reporting part
19 I violent crimes.

20 **SEC. 102. TRUTH IN SENTENCING INCENTIVE FUND.**

21 (a) Twenty-five percent of total amount of funds ap-
22 propriated under this title in each of fiscal years 1996,
23 1997, 1998 shall be allocated to each eligible State accord-
24 ing to the same ratios established in section 101 multiplied
25 by the percentage change in States' percentage of time

1 to be served by the persons convicted of violent crimes
2 divided by the average of all States' percentage change
3 in percentage of time to be served by the persons convicted
4 of violent crimes. States which have achieved a Truth in
5 Sentencing standard of violent criminals serving 85 per-
6 cent of prison time assessed shall receive the incentive
7 funds based on the average of such percentage change ra-
8 tios of all States multiplied by the States percentage of
9 total part I violent crime reported.

10 (b) ELIGIBILITY FOR TRUTH IN SENTENCING INCEN-
11 TIVE FUND.—In order to be eligible for grants under sub-
12 section (a), a State must demonstrate that it has, since
13 1993—

14 (1) increased the percentage of convicted violent
15 offenders sentenced to prison;

16 (2) increased the average prison time actually
17 to be served in prison by convicted violent offenders
18 sentenced to prison; and

19 (3) increased the percentage of sentence to be
20 actually served in prison by violent offenders sen-
21 tenced prison.

22 (c) LAW CHANGES.—As evidence of such good faith
23 effort to meet the goals contained in subsection (b), a
24 State may make changes to its laws and regulations which
25 may include—

1 (1) truth in sentencing laws which will require
2 persons convicted of violent crimes to serve not less
3 than 85 percent of the sentence imposed;

4 (2) mandatory prison sentences for persons con-
5 victed of the most serious violent crimes;

6 (3) pretrial detention for persons whose release
7 it can be shown would pose a danger to any other
8 person or the community;

9 (4) sentencing authority to allow the defend-
10 ant's victims or the family of victims the opportunity
11 to be heard regarding the issue of sentencing and
12 provide that the victim or the victim's family will be
13 notified whenever such defendant is to be released;
14 or

15 (5) that a person who is convicted of a serious
16 violent crime shall be sentenced to life imprisonment
17 if—

18 (A) the person has been convicted on 2 or
19 more prior occasions in a court of the United
20 States or of a State of a serious violent crime,
21 or of 1 or more serious violent crimes and 1 or
22 more serious drug offenses; and

23 (B) each serious violent crime or serious
24 drug offense used as a basis for sentencing
25 under this subsection, other than the first, was

1 committed after the defendant's conviction of
2 the preceding serious violent crime or serious
3 drug offense.

4 **SEC. 103. LIMITATIONS OF FUNDS.**

5 (a) NONSUPPLANTING REQUIREMENT.—Funds made
6 available under the title shall not be used to supplant
7 State funds, but shall be used to increase the amount of
8 funds that would, in the absence of Federal funds, be
9 made available from State sources.

10 (b) ADMINISTRATIVE COSTS.—Not more than 3 per-
11 cent of the funds available under the title may be used
12 for administrative costs.

13 (c) MATCHING FUNDS.—The portion of the costs of
14 a program provided by a grant under this title may not
15 exceed 90 percent of the total costs of the program as de-
16 scribed in application.

17 (d) CARRY OVER OF APPROPRIATIONS.—Any funds
18 appropriated but not expended as provided by this section
19 during any fiscal year shall be carried over and will be
20 made available until expended.

21 **SEC. 104. DEFINITIONS.**

22 For purposes of this title—

23 (1) the term “violent crime” means—

1 (A) a felony offense that has as an element
2 the use, attempted use, or threatened use of
3 physical force against the person of another, or

4 (B) any other offense that is a felony and
5 that, by its nature, involves substantial risk
6 that physical force against the person of an-
7 other may be used in the course of committing
8 the offense;

9 (2) the term “serious drug offender” has the
10 same meaning as that is used in section
11 924(e)(2)(A) of title 18, United States Code;

12 (3) the term “State” means any of the United
13 States and the District of Columbia;

14 (4) the term “convicted” means convicted and
15 sentenced to a term in a State corrections institution
16 or a period of formal probation; and

17 (5) the term “part I violent crimes” means
18 murder, rape, robbery, and aggravated assault as
19 those offenses are reported to the Federal Bureau of
20 Investigation for purposes of the Uniform Crime
21 Reports.

1 **TITLE II—STATE AND LOCAL LAW**
2 **ENFORCEMENT GRANTS.**

3 **SEC. 201. GRANTS AUTHORIZED.**

4 (a) GRANT AUTHORIZATION.—The Attorney General
5 shall make grants to individual States to increase the
6 number of law enforcement officers in service.

7 (b) AMOUNTS AUTHORIZED.—Grants totalling
8 \$3,000,000,000 shall be made to each State not later than
9 October 30, 1994, and grants to each State totalling
10 \$3,000,000,000 shall be made annually thereafter in each
11 of the fiscal years from fiscal year 1996 through fiscal
12 year 1998.

13 (c) GRANT ALLOCATION.—All such grants shall be
14 made without conditions imposed by the Federal govern-
15 ment, notwithstanding any other provision of Federal law,
16 except that the use of such funds shall be exclusively to
17 increase the number of law enforcement officers in service.

18 (d) GRANT FORMULA.—States shall be required to
19 allocate 80 percent of their grants to local government for
20 use by local law enforcement, as nearly as possible in pro-
21 portion to the populations served by such local law en-
22 forcement agencies.

1 **TITLE III—PROTECTION AGAINST**
2 **SEXUALLY VIOLENT PREDATORS**

3 **SEC. 301. DEFINITIONS.**

4 As used in this title:

5 (1) MENTAL ABNORMALITY.—The term “men-
6 tal abnormality” means a congenital or acquired
7 condition of a person that affects the emotional or
8 volitional capacity of the person in a manner that
9 predisposes the person to the commission of criminal
10 sexual acts to a degree that makes the person a
11 menace to the health and safety of other persons.

12 (2) PREDATORY.—The term “predatory”, with
13 respect to an act, means an act directed towards a
14 stranger, or a person with whom a relationship has
15 been established or promoted, for the primary pur-
16 pose of victimization.

17 (3) SEXUALLY VIOLENT OFFENSE.—The term
18 “sexually violent offense” means an act that is a vio-
19 lation of title 18, United States Code or State crimi-
20 nal code that—

21 (A) involves the use or attempted or
22 threatened use of physical force against the per-
23 son or property of another person; and

24 (B) is determined beyond a reasonable
25 doubt to be sexually motivated.

1 (4) SEXUALLY VIOLENT PREDATOR.—The term
2 “sexually violent predator” means a person who has
3 been convicted of a sexually violent offense and who
4 suffers from a mental abnormality or personality
5 disorder that makes the person likely to engage in
6 predatory sexually violent offenses.

7 **SEC. 302. ESTABLISHMENT OF PROGRAM.**

8 (a) IN GENERAL.—

9 (1) STATE GUIDELINE.—In accordance with
10 this section, the Attorney General shall establish
11 guidelines for State programs to require a sexually
12 violent predator to register a current address with a
13 designated State law enforcement agency upon re-
14 lease from prison, being placed on parole, or being
15 placed on supervised release. The Attorney General
16 shall approve each State program that complies with
17 the guidelines.

18 (2) STATE COMPLIANCE.—

19 (A) IMPLEMENTATION DATE.—A State
20 that does not implement a program described in
21 paragraph (1) by the date that is 3 years after
22 the date of enactment of this Act, and maintain
23 the implementation thereafter, shall be ineligible
24 for funds in accordance with subparagraph (B).

25 (B) INELIGIBILITY FOR FUNDS.—

1 (i) IN GENERAL.—A State that does
2 not implement the program as described in
3 subparagraph (A) shall not receive 10 per-
4 cent of the funds that would otherwise be
5 allocated to the State under section 506 of
6 the Omnibus Crime Control and Safe
7 Streets Act of 1968 (42 U.S.C. 3756).

8 (ii) REALLOCATION OF FUNDS.—
9 Funds made available under clause (i)
10 shall be reallocated, in accordance with
11 such section, to such States as implement
12 the program as described in subparagraph
13 (A).

14 (b) REGISTRATION REQUIREMENT UPON RELEASE,
15 PAROLE, OR SUPERVISED RELEASE.—

16 (1) IN GENERAL.—An approved State program
17 established in accordance with this section shall con-
18 tain the requirements described in this section.

19 (2) DETERMINATION.—The determination that
20 a person is a “sexually violent predator” and the de-
21 termination that a person is no longer a “sexually
22 violent predator” shall be made by the sentencing
23 court after receiving a report by a board of experts
24 on sexual offenses. Each State shall establish a

1 board composed of experts in the field of the behav-
2 ior and treatment of sexual offenders.

3 (3) NOTIFICATION.—If a person who is re-
4 quired to register under this section is anticipated to
5 be released from prison, paroled, or placed on super-
6 vised release, a State prison officer shall, not later
7 than 90 days before the anticipated date of the re-
8 lease or commencement of the parole—

9 (A) inform the person of the duty to reg-
10 ister;

11 (B) inform the person that if the person
12 changes residence address, the person shall give
13 the new address to a designated State law en-
14 forcement agency in writing not later than 10
15 days after the change of address;

16 (C) obtain the name of the person, identi-
17 fying factors, anticipated future residence, of-
18 fense history, and documentation of any treat-
19 ment received for the mental abnormality or
20 personality disorder of the person; and

21 (D) require the person to read and sign a
22 form stating that the duty of the person to reg-
23 ister under this section has been explained.

24 (4) TRANSFER OF INFORMATION TO STATE AND
25 THE FBI.—Not later than 3 days after the receipt

1 of the information described in paragraph (3)(C),
2 the officer shall forward the information to a des-
3 ignated State law enforcement agency. As soon as
4 practicable after the receipt of the information by
5 the State law enforcement agency, the agency
6 shall—

7 (A) enter the information into the appro-
8 priate State law enforcement record system and
9 notify the appropriate law enforcement agency
10 that has jurisdiction over the area in which the
11 person expects to reside; and

12 (B) transmit the information to the Identi-
13 fication Division of the Federal Bureau of
14 Investigation.

15 (5) QUARTERLY VERIFICATION.—

16 (A) MAILING TO PERSON.—Not less than
17 every 90 days after the date of the release or
18 commencement of parole of a person required to
19 register under this section, the designated State
20 law enforcement agency shall mail a
21 nonforwardable verification form to the last re-
22 ported address of the person.

23 (B) RETURN OF VERIFICATION FORM.—

24 (i) IN GENERAL.—The person shall
25 return, by mail, the verification form to

1 the agency not later than 10 days after the
2 receipt of the form. The verification form
3 shall be signed by the person, and shall
4 state that the person continues to reside at
5 the address last reported to the designated
6 State law enforcement agency.

7 (ii) FAILURE TO RETURN.—If the per-
8 son fails to mail the verification form to
9 the designated State law enforcement
10 agency by the date that is 10 days after
11 the receipt of the form by the person, the
12 person shall be in violation of this section
13 unless the person proves that the person
14 has not changed the residence address of
15 the person.

16 (6) NOTIFICATION OF LOCAL LAW ENFORCE-
17 MENT AGENCIES OF CHANGES IN ADDRESS.—Any
18 change of address by a person required to register
19 under this section that is reported to the designated
20 State law enforcement agency shall as soon as prac-
21 ticable be reported to the appropriate law enforce-
22 ment agency that has jurisdiction over the area in
23 which the person is residing.

24 (7) PENALTY.—A person required to register
25 under a State program established pursuant to this

1 section who knowingly fails to register and keep the
2 registration current shall be subject to criminal pen-
3 alties in the State. It is the sense of Congress that
4 the penalties should include imprisonment for not
5 less than 180 days.

6 (8) TERMINATION OF OBLIGATION TO REG-
7 ISTER.—The obligation of a person to register under
8 this section shall terminate on a determination made
9 in accordance with the provision of paragraph (2) of
10 this section that the person no longer suffers from
11 a mental abnormality or personality disorder that
12 would make the person likely to engage in a preda-
13 tory sexually violent offense.

14 (c) COMMUNITY NOTIFICATION.—The designated
15 State law enforcement agency shall release relevant infor-
16 mation that is necessary to protect the public concerning
17 a specific sexually violent predator required to register
18 under this section.

19 (d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law
20 enforcement agencies, employees of law enforcement agen-
21 cies, and State officials shall be immune from liability for
22 any good faith conduct under this section.

1 **TITLE IV—ELIMINATING EXCESSIVE AND**
2 **REDUNDANT APPEALS**

3 **SEC. 401. PERIOD OF LIMITATION FOR FILING WRIT OF HA-**
4 **BEAS CORPUS FOLLOWING FINAL JUDGMENT**
5 **OF A STATE COURT.**

6 Section 2244 of title 28, United States Code, is
7 amended by adding at the end the following:

8 “(d) A one-year period of limitation shall apply to an
9 application for a writ of habeas corpus by a person in cus-
10 tody pursuant to the judgment of a State court. The limi-
11 tation period shall run from the latest of the following
12 times:

13 “(1) The time at which State remedies are
14 exhausted.

15 “(2) The time at which the impediment to filing
16 an application created by State action in violation of
17 the Constitution or laws of the United States is re-
18 moved, where the applicant was prevented from fil-
19 ing by such State action.

20 “(3) The time at which the Federal right as-
21 serted was initially recognized by the Supreme
22 Court, where the right has been newly recognized by
23 the Court and is retroactively applicable.

24 “(4) The time at which the factual predicate of
25 the claim or claims presented could have been dis-

1 covered through the exercise of reasonable dili-
2 gence.”.

3 **SEC. 402. AUTHORITY OF APPELLATE JUDGES TO ISSUE**
4 **CERTIFICATES OF PROBABLE CAUSE FOR AP-**
5 **PEAL IN HABEAS CORPUS AND FEDERAL COL-**
6 **LATERAL RELIEF PROCEEDINGS.**

7 Section 2253 of title 28, United States Code, is
8 amended to read as follows:

9 **“§ 2253. Appeal**

10 “(a) In a habeas corpus proceeding or a proceeding
11 under section 2255 of this title before a circuit or district
12 judge, the final order shall be subject to review, on appeal,
13 by the court of appeals for the circuit where the proceed-
14 ing is had.

15 “(b) There shall be no right of appeal from such an
16 order in a proceeding to test the validity of a warrant to
17 remove, to another district or place for commitment or
18 trial, a person charged with a criminal offense against the
19 United States, or to test the validity of his detention pend-
20 ing removal proceedings.

21 “(c) An appeal may not be taken to the court of ap-
22 peals from the final order in a habeas corpus proceeding
23 where the detention complained of arises out of process
24 issued by a State court, or from the final order in a pro-

ceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.”.

SEC. 403. CONFORMING AMENDMENT TO THE RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

“RULE 22

“HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

“(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

“(b) NECESSITY OF CERTIFICATE OR PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If

1 a request for a certificate of probable cause is addressed
2 to the court of appeals, it shall be deemed addressed to
3 the judges thereof and shall be considered by a circuit
4 judge or judges as the court deems appropriate. If no ex-
5 press request for a certificate is filed, the notice of appeal
6 shall be deemed to constitute a request addressed to the
7 judges of the court of appeals. If an appeal is taken by
8 a State or the Government or its representative, a certifi-
9 cate of probable cause is not required.”.

10 **SEC. 404. DISCRETION TO DENY HABEAS CORPUS APPLICA-**
11 **TION DESPITE FAILURE TO EXHAUST STATE**
12 **REMEDIES.**

13 Section 2254(b) of title 28, United State Code, is
14 amended to read as follows:

15 “(b) An application for a writ of habeas corpus in
16 behalf of a person in custody pursuant to the judgment
17 of a State court shall not be granted unless it appears
18 that the applicant has exhausted the remedies available
19 in the courts of the State, or that there is either an ab-
20 sence of available State corrective process or the existence
21 of circumstances rendering such process ineffective to pro-
22 tect the rights of the applicant. An application may be
23 denied on the merits notwithstanding the failure of the
24 applicant to exhaust the remedies available in the courts
25 of the State.”.

1 **SEC. 405. PERIOD OF LIMITATION FOR FEDERAL PRIS-**
2 **ONERS FILING FOR COLLATERAL REMEDY.**

3 Section 2255 of title 28, United States Code, is
4 amended by striking the second paragraph and the penul-
5 timate paragraph thereof, and by adding at the end the
6 following new paragraphs:

7 “A two-year period of limitation shall apply to a mo-
8 tion under this section. The limitation period shall run
9 from the latest of the following times:

10 “(1) The time at which the judgment of convic-
11 tion becomes final.

12 “(2) The time at which the impediment to mak-
13 ing a motion created by governmental action in vio-
14 lation of the Constitution or laws of the United
15 States is removed, where the movant was prevented
16 from making a motion by such governmental action.

17 “(3) The time at which the right asserted was
18 initially recognized by the Supreme Court, where the
19 right has been newly recognized by the Court and is
20 retroactively applicable.

21 “(4) The time at which the factual predicate of
22 the claim or claims presented could have been dis-
23 covered through the exercise of reasonable dili-
24 gence.”.

1 **SEC. 406. SPECIAL PROCEDURES FOR COLLATERAL PRO-**
 2 **CEEDINGS IN CAPITAL CASES.**

3 Title 28, United States Code, is amended by inserting
 4 the following new chapter immediately following chapter
 5 153:

“CHAPTER 154—HABEAS CORPUS PROCEDURES IN CAPITAL
 CASES

“Sec.

“2256. Prisoners in State custody subject to capital sentence; appointment of
 counsel; requirement of rule of court or statute; procedures for
 appointment.

“2257. Mandatory stay of execution; duration; limits on stays of execution; suc-
 cessive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

“2259. Evidentiary hearings; scope of Federal review; district court adjudica-
 tion.

“2260. Certificate of probable cause inapplicable.

“2261. Application to State unitary review procedures.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

6 **“§ 2256. Prisoners in State custody subject to capital**
 7 **sentence; appointment of counsel; re-**
 8 **quirement of rule of court or statute; pro-**
 9 **cedures for appointment**

10 “(a) This chapter shall apply to cases arising under
 11 section 2254 brought by prisoners in State custody who
 12 are subject to a capital sentence. It shall apply only if the
 13 provisions of subsections (b) and (c) are satisfied.

14 “(b) This chapter is applicable if a State establishes
 15 by rule of its court of last resort or by statute a mecha-
 16 nism for the appointment, compensation and payment of
 17 reasonable litigation expenses of competent counsel in
 18 State postconviction proceedings brought by indigent pris-

1 oners whose capital convictions and sentences have been
2 upheld on direct appeal to the court of last resort in the
3 State or have otherwise become final for State law pur-
4 poses. The rule of court or statute must provide standards
5 of competency for the appointment of such counsel.

6 “(c) Any mechanism for the appointment, compensa-
7 tion and reimbursement of counsel as provided in sub-
8 section (b) must offer counsel to all State prisoners under
9 capital sentence and must provide for the entry of an
10 order by a court of record (1) appointing one or more
11 counsel to represent the prisoner upon a finding that the
12 prisoner is indigent and accepted the offer or is unable
13 competently to decide whether to accept or reject the offer;
14 (2) finding, after a hearing if necessary, that the prisoner
15 rejected the offer of counsel and made the decision with
16 an understanding of its legal consequences; or (3) denying
17 the appointment of counsel upon a finding that the pris-
18 oner is not indigent.

19 “(d) No counsel appointment pursuant to subsections
20 (b) and (c) to represent a State prisoner under capital
21 sentence shall have previously represented the prisoner at
22 trial or on direct appeal in the case for which the appoint-
23 ment is made unless the prisoner and counsel expressly
24 request continued representation.

1 “(e) The ineffectiveness or incompetence of counsel
2 during State or Federal collateral postconviction proceed-
3 ings in a capital case shall not be a ground for relief in
4 a proceeding arising under section 2254 of this chapter.
5 This limitation shall not preclude the appointment of dif-
6 ferent counsel, on the court’s own motion or at the request
7 of the prisoner, at any phase of State or Federal
8 postconviction proceedings on the basis of the ineffective-
9 ness or incompetence of counsel in such proceedings.

10 **“§ 2257. Mandatory stay of execution; duration; limits**
11 **on stays of execution; successive peti-**
12 **tions**

13 “(a) Upon the entry in the appropriate State court
14 of record of an order under section 2256(c), a warrant
15 or order setting an execution date for a State prisoner
16 shall be stayed upon application to any court that would
17 have jurisdiction over any proceedings filed under section
18 2254. The application must recite that the State has in-
19 voked the postconviction review procedures of this chapter
20 and that the scheduled execution is subject to stay.

21 “(b) A stay of execution granted pursuant to sub-
22 section (a) shall expire if—

23 “(1) a State prisoner fails to file a habeas cor-
24 pus petition under section 2254 within the time re-
25 quired in section 2258, or fails to make a timely ap-

1 plication for court of appeals review following the de-
2 nial of such a petition by a district court;

3 “(2) upon completion of district court and court
4 of appeals review under section 2254 the petition for
5 relief is denied and (A) the time for filing a petition
6 for certiorari has expired and no petition has been
7 filed; (B) a timely petition for certiorari was filed
8 and the Supreme Court denied the petition; or (C)
9 a timely petition for certiorari was filed and upon
10 consideration of the case, the supreme Court dis-
11 posed of it in a manner that left the capital sentence
12 undisturbed; or

13 “(3) before a court of competent jurisdiction, in
14 the presence of counsel and after having been ad-
15 vised of the consequences of his decision, a State
16 prisoner under capital sentence waives the right to
17 pursue habeas corpus review under section 2254.

18 “(c) If one of the conditions in subsection (b) has
19 occurred, no Federal court thereafter shall have the au-
20 thority to enter a stay of execution or grant relief in a
21 capital case unless—

22 “(1) the basis for the stay and request for relief
23 is a claim not previously presented in the State or
24 Federal courts;

1 “(2) the failure to raise the claim is (A) the re-
2 sult of State action in violation of the Constitution
3 or laws of the United States; (B) the result of the
4 Supreme Court recognition of a new Federal right
5 that is retroactively applicable; or (C) based on a
6 factual predicate that could not have been discovered
7 through the exercise of reasonable diligence in time
8 to present the claim for State or Federal
9 postconviction review; and

10 “(3) The facts underlying the claim would be
11 sufficient to establish by clear and convincing evi-
12 dence that but for constitutional error, no reasonable
13 fact finder would have found the petitioner guilty of
14 the underlying offense or eligible for the death pen-
15 alty under State law.

16 “(d) Notwithstanding any other provision of
17 law, no Federal district court or appellate judge
18 shall have the authority to enter a stay of execution,
19 issue injunctive relief, or grant any equitable or
20 other relief in a capital case on any successive ha-
21 beas petition (or other action which follows the final
22 determination of a first habeas corpus petition) un-
23 less the court first determines the petition or other
24 action does not constitute an abuse of the writ. This
25 determination shall be made only by the district

1 judge or appellate panel who adjudicated the merits
2 of the original habeas petition (or to the district
3 judge or appellate panel to which the case may have
4 been subsequently assigned as a result of the un-
5 availability of the original court or judges). In the
6 Federal courts of appeal, a stay may issue pursuant
7 to the terms of this provision only when a majority
8 of the original panel or majority of the active judges
9 determines the petition does not constitute an abuse
10 of the writ.

11 **“§ 2258. Filing of habeas corpus petition; time re-**
12 **quirements; tolling rules**

13 “Any petition for habeas corpus relief under section
14 2254 must be filed in the appropriate district court within
15 one hundred and eighty days from the filing in the appro-
16 priate State court of record of an order under section
17 2256(c). The time requirements establish by this section
18 shall be tolled—

19 “(1) from the date that a petition for certiorari
20 is filed in the Supreme Court until the date of final
21 disposition of the petition if a State prisoner files
22 the petition to secure review by the Supreme Court
23 of the affirmance of a capital sentence on direct re-
24 view by the court of last resort of the State or other
25 final State court decision on direct review;

1 “(2) during any period in which a State pris-
2 oner under capital sentence has a properly filed re-
3 quest for postconviction review pending before a
4 State court of competent jurisdiction; if all State fil-
5 ing rules are met in a timely manner, this period
6 shall run continuously from the date that the State
7 prisoner initially files for postconviction review until
8 final disposition of the case by the highest court of
9 the State, but the time requirements established by
10 this section are not tolled during the pendency of a
11 petition for certiorari before the Supreme Court ex-
12 cept as provided in paragraph (1); and

13 “(3) during an additional period not to exceed
14 sixty days, if (A) a motion for an extension of time
15 is filed in the Federal district court that would have
16 proper jurisdiction over the case upon the filing of
17 a habeas corpus petition under section 2254; and
18 (B) a showing of good cause is made for the failure
19 to file the habeas corpus petition within the time pe-
20 riod established by this section.

21 **§ 2259. Evidentiary hearings; scope of Federal review;**

22 **district court adjudication**

23 “(a) Whenever a State prisoner under a capital sen-
24 tence files a petition for habeas corpus relief to which this
25 chapter applies, the district court shall—

1 “(1) determine the sufficiency of the record for
2 habeas corpus review based on the claims actually
3 presented and litigated in the State courts except
4 when the prisoner can show that the failure to raise
5 or develop a claim in the State courts is (A) the re-
6 sult of State action in violation of the Constitution
7 or laws of the United States; (B) the result of the
8 Supreme Court recognition of a new Federal right
9 that is retroactively applicable; or (C) based on a
10 factual predicate that could not have been discovered
11 through the exercise of reasonable diligence in time
12 to present the claim for State postconviction review;
13 and

14 “(2) conduct any requested evidentiary hearing
15 necessary to complete the record for habeas corpus
16 review.

17 “(b) Upon the development of a complete evidentiary
18 record, the district court shall rule on the claims that are
19 properly before it.

20 **“§ 2260. Certificate of probable cause inapplicable**

21 “‘The requirement of a certificate of probable cause
22 in order to appeal from the district court to the court of
23 appeals does not apply to habeas corpus cases subject to
24 the provisions of this chapter except when a second or suc-
25 cessive petition is filed.

1 **§ 2261. Application to State unitary review procedure**

2 “(a) For purposes of this section, a ‘unitary review’
3 procedure means a State procedure that authorizes a per-
4 son under sentence of death to raise, in the course of di-
5 rect review of the judgment, such claims as could be raised
6 on collateral attack. The provisions of this chapter shall
7 apply, as provided in this section, in relation to a State
8 unitary review procedure if the State established by rule
9 of its court of last resort or by statute a mechanism for
10 the appointment, compensation and payment of reasonable
11 litigation expenses of competent counsel in the unitary re-
12 view proceedings, including expenses relating to the litiga-
13 tion of collateral claims in the proceedings. The rule of
14 court of statute must provide standards of competency for
15 the appointment of such counsel.

16 “(b) A unitary review procedure, to qualify under this
17 section, must include an offer of counsel following trial
18 for the purpose of representation on unitary review, and
19 entry of an order, as provided in section 2256(c), concern-
20 ing appointment of counsel or waiver or denial of appoint-
21 ment of counsel for that purpose. No counsel appointed
22 to represent the prisoner in the unitary review proceedings
23 shall have previously represented the prisoner at trial in
24 the case for which the appointment is made unless the
25 prisoner and counsel expressly request continued represen-
26 tation.

1 “(c) Sections 2257, 2258, 2259, 2260, and 2262
2 shall apply in relation to cases involving a sentence of
3 death from any State having a unitary review procedure
4 that qualifies under this section. References to State ‘post-
5 conviction review’ and ‘direct review’ in those sections
6 shall be understood as referring to unitary review under
7 the State procedure. The references in sections 2257(a)
8 and 2258 to ‘an order under section 2256(c)’ shall be un-
9 derstood as referring to the post-trial order under sub-
10 section (b) concerning representation in the unitary review
11 proceedings, but if a transcript of the trial proceedings
12 is unavailable at the time of the filing of such an order
13 in the appropriate State court, then the start of the one
14 hundred and eighty day limitation period under section
15 2258 shall be deferred until a transcript is made available
16 to the prisoner or his counsel.

17 **“§ 2262. Limitation periods for determining petitions**

18 “(a)(1) A Federal district court shall determine such
19 a petition or motion within 60 days of any argument heard
20 on an evidentiary hearing, or where no evidentiary hearing
21 is held, within 60 days of any final argument heard in
22 the case.

23 “(2)(A) The court of appeals shall hear and deter-
24 mine any appeal relating to such a petition or motion with-
25 in 90 days after the filing of any reply brief or within

1 90 days after such reply brief would be due. For purposes
2 of this provision, any reply brief shall be due within 14
3 days of the opposition brief.

4 “(B) The court of appeals shall decide any petition
5 for rehearing and or request by an appropriate judge for
6 rehearing en banc within 20 days of the filing of such a
7 petition or request unless a responsive pleading is required
8 in which case the court of appeals shall decide the applica-
9 tion within 20 days of the filing of the responsive pleading.
10 If en banc consideration is granted, the en banc court shall
11 determine the appeal within 90 days of the decision to
12 grant such consideration.

13 “(3) The time limitations contained in paragraphs
14 (1) and (2) may be extended only once for 20 days, upon
15 an express good cause finding by the court that the inter-
16 ests of justice warrant such a one-time extension. The spe-
17 cific grounds for the good cause finding shall be set forth
18 in writing in any extension order of the court.

19 “(4) Since the matters under paragraphs (1) and
20 (2)(A) are to be handled on a priority basis, the time from
21 filing of the petition or motion to final argument (under
22 paragraph (1)) or of the notice of appeal to the hearing
23 of the appeal (under paragraph (2)(A)) shall not exceed
24 4 months, unless exceptional circumstances require a
25 longer period. Where such time period exceeds 4 months

1 in any petition or motion (under paragraph (2)(A)), the
2 court shall set forth in writing the exceptional cir-
3 cumstances causing the delay.

4 “(b) the time limitations under section (a) shall apply
5 to an initial petition or motion, and to any second or suc-
6 cessive petition or motion. The same limitations shall also
7 apply to the re-determination of a petition or motion or
8 related appeal following a remand by the court of appeals
9 or the Supreme Court for further proceedings, and in such
10 case the limitation period shall run from the date of the
11 remand.

12 “(c) The time limitations under this section shall not
13 be construed to entitle a petitioner or movant to a stay
14 of execution, to which the petitioner or movant would oth-
15 erwise not be entitled, for the purpose of litigating any
16 petition, motion, or appeal.

17 “(d) The failure of a court to meet or comply with
18 the time limitations under this section shall not be a
19 ground for granting relief from a judgment of conviction
20 or sentence. The State or Government may enforce the
21 time limitations under this section by applying to the court
22 of appeals or the Supreme Court for a writ of mandamus.

23 “(e) the Administrative Office of United States
24 Courts shall report annually to Congress on the compli-

1 ance by the courts with the time limits established in this
2 section.

3 **“§ 2263. Rule of construction**

4 “This chapter shall be construed to promote the expe-
5 ditious conduct and conclusion of State and Federal court
6 review in capital cases.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters
8 at the beginning of part VI of title 28, United States Code,
9 is amended by inserting after the item relating to chapter
10 153 the following new item:

“154. Special habeas corpus procedures in capital cases 2256.”.

11 **TITLE V—REFORM OF EXCLUSIONARY**

12 **RULE**

13 **SEC. 501. REFORM OF EXCLUSIONARY RULE.**

14 (a) IN GENERAL.—Chapter 223 of title 18, United
15 States Code, is amended by adding at the end the follow-
16 ing:

17 **“§ 3510. Admissibility of evidence obtained by search**
18 **or seizure assured**

19 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
20 SONABLE SEARCH OR SEIZURE.—Evidence which is ob-
21 tained as a result of a search or seizure shall not be ex-
22 cluded in a proceeding in a court of the United States
23 on the grounds that the search or seizure was in violation
24 of the fourth amendment to the Constitution of the United
25 States, if the search or seizure was carried out in cir-

1 cumstances justifying an objectively reasonable belief that
 2 it was in conformity with the fourth amendment. The fact
 3 that evidence was obtained pursuant to and within the
 4 scope of a warrant constitutes prima facie evidence of the
 5 existence of such circumstances.

6 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
 7 RULE.—Evidence shall not be excluded in a proceeding
 8 in a court of the United States on the ground that it was
 9 obtained in violation of a statute, an administrative rule
 10 or regulation, or a rule of procedure unless exclusion is
 11 expressly authorized by statute or by a rule prescribed by
 12 the Supreme Court pursuant to statutory authority.

13 “(c) RULE OF CONSTRUCTION.—This section shall
 14 not be construed to require or authorize the exclusion of
 15 evidence in any proceeding.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
 17 at the beginning of chapter 223 of title 18, United States
 18 Code, is amended by adding at the end the following:

“3510. Admissibility of evidence obtained by search or seizure.”.

19 **TITLE VI—TRUTH IN SENTENCING**

20 **SEC. 601. RELEASE OF PRISONER.**

21 (a) Section 3624(a) of title 18, United States Code,
 22 is amended—

23 (1) by deleting, “less any time credited forward
 24 the service of his sentence as provided in subsection
 25 (b).”; and

1 (2) substituting “plus any discretionary addi-
2 tional time up to 15 percent of that term that may
3 have been imposed for unsatisfactory behavior.”.

4 (b) Section 3624(b) of title 18, United States Code,
5 is amended by—

6 (1) deleting the caption “Credit toward service
7 of sentence for satisfactory behavior” and substitut-
8 ing therefor “Additional term of imprisonment for
9 unsatisfactory behavior.”; and

10 (2) deleting the entire section and substituting
11 the following: “No person may be kept in prison by
12 reason of this section for a term longer than the
13 maximum term set by Act of Congress for the of-
14 fense. Notwithstanding any other provision of law,
15 such maximum term shall be deemed to be increased
16 by 15 percent in order to facilitate the implementa-
17 tion of this section. A prisoner who is serving a term
18 of imprisonment of more than one year, other than
19 a term of imprisonment for the duration of his life,
20 shall have additional time added to his sentence, be-
21 yond the time served, of up to fifty-four days at the
22 end of each year of this term of imprisonment, be-
23 ginning after the first year of the term if the Bureau
24 of Prisons determines that during that year, he has
25 not satisfactorily complied with such institutional

1 disciplinary regulations as have been approved by
2 the Attorney General and issued to the prisoner.
3 The Bureau's determination shall be made within
4 fifteen days after the end of each year of the sen-
5 tence. Such additional time of sentence vests at the
6 time that is received. Additional time that has vested
7 may not later be withdrawn. The last year or portion
8 of a year of the term of imprisonment shall be pro-
9 rated within the last six weeks of the sentence. Any
10 additional time that, by reason of this section, is
11 spent in prison beyond the term otherwise nominally
12 imposed for the offense shall be deemed a part of
13 that term for purposes of subsection (c) of this sec-
14 tion. Under no circumstances, notwithstanding any
15 other provision of law, shall a sentence be reduced
16 for satisfactory behavior to a term less than the
17 original sentence nominally imposed.”.

18 **SEC. 602. COMPUTATION GENERALLY.**

19 (a) Section 4161 of title 18 is amended by deleting
20 “has faithfully observed all the rules and has not been sub-
21 jected to punishment, shall be entitled to a deduction” and
22 substituting “who has displayed poor conduct, may be sub-
23 jected to an increase in the term of his sentence up to
24 the 15 percent additional discretionary term imposed by
25 this title.”

1 (b) Section 4162 of title 18 is amended by deleting
2 “be allowed deduction from his sentence” and substituting
3 “be confined for additional time up to the 15 percent addi-
4 tional discretionary term of his sentence imposed by this
5 Title,” and by deleting “allowance may be made to” and
6 substituting “additional term may also be imposed on”;
7 and by deleting “meritorious service or performing duties
8 of outstanding importance” and substituting “poorly”.

9 (c) Section 4163 of title 18 is amended by deleting
10 “less the time deducted for good conduct” and substitut-
11 ing “plus the time, if any, added toward the 15 percent
12 discretionary term imposed by this title.”.

13 **TITLE VII—PRISON WORK REQUIRED;**
14 **LUXURIES ABOLISHED.**

15 **SEC. 701. LUXURIES ABOLISHED.**

16 Section 4001(b)(2) of title 18 is amended by adding
17 at the end: “The Attorney General shall, not later than
18 120 days from the enactment of this section, implement
19 and enforce regulations mandating prison work for all
20 able-bodied inmates in Federal penal and correctional in-
21 stitutions. Such regulations shall also prohibit the govern-
22 ment provision in inmates’ cells of television, radio, tele-
23 phone stereo or other similar amenities.”.

1 **SEC. 702. AWARDS OF PELL GRANTS TO PRISONERS PRO-**
2 **HIBITED.**

3 (a) IN GENERAL.—Section 401(b)(8) of the Higher
4 Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amend-
5 ed to read as follows:

6 “(8) No basic grant shall be awarded under this
7 subpart to any individual who is incarcerated in any
8 Federal or State penal institution.”.

9 (b) APPLICATION OF AMENDMENT.—The amendment
10 made by this section shall apply with respect to periods
11 of enrollment beginning on or after the date of enactment
12 of this Act.

13 **TITLE VIII—IMPROVING BORDER**
14 **CONTROLS**

15 **SEC. 801. GRANTS FOR BORDER CONTROL.**

16 The Attorney General is authorized and directed to
17 use the funds authorized in this section to permit the com-
18 mander of the Border Patrol to increase by at least 6,000
19 the number of border patrol agent positions in the Border
20 Patrol above the number of such positions as of July 1,
21 1994.

22 There are authorized to be appropriated to carry out
23 this section \$250,000,000 in each of fiscal years 1995,
24 1996, 1997, and 1998.

1 **SEC. 802. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
2 **EXCLUSION.**

3 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
4 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
5 is amended by adding at the end the following new sub-
6 paragraph:

7 “(E) CONVICTED DEFINED.—In this para-
8 graph, the term ‘convicted’ means a judge or
9 jury has found the alien guilty or the alien has
10 entered a plea of guilty or nolo contendere,
11 whether or not the alien appeals therefrom.”.

12 (b) DEPORTATION OF CONVICTED ALIENS.—

13 (1) IMMEDIATE DEPORTATION.—Section 242(h)
14 of such Act (8 U.S.C. 1252(h)) is amended—

15 (A) by striking “(h) An alien” and insert-
16 ing “(h)(1) Subject to paragraph (2), an alien”;
17 and

18 (B) by adding at the end the following new
19 paragraph:

20 “(2) An alien sentenced to imprisonment may be de-
21 ported prior to the termination of such imprisonment by
22 the release of the alien from confinement, if the Service
23 petitions the appropriate court or other entity with author-
24 ity concerning the alien to release the alien into the cus-
25 tody of the Service for execution of an order of deporta-
26 tion.”.

1 (2) PROHIBITION OF REENTRY INTO THE
2 UNITED STATES.—Section 212(a)(2) of such Act (8
3 U.S.C. 1182(a)(2)) is amended—

4 (A) by redesignating subparagraph (F) as
5 subparagraph (G); and

6 (B) by inserting after subparagraph (E)
7 the following new subparagraph:

8 “(F) ALIENS DEPORTED BEFORE SERVING
9 MINIMUM PERIOD OF CONFINEMENT.—In addi-
10 tion to any other period of exclusion which may
11 apply an alien deported pursuant to section
12 242(h)(2) is excludable during the minimum pe-
13 riod of confinement to which the alien was sen-
14 tenced.”.

15 (c) EXECUTION OF DEPORTATION ORDERS.—Section
16 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
17 ing at the end the following: “An order of deportation may
18 not be executed until all direct appeals relating to the con-
19 viction which is the basis of the deportation order have
20 been exhausted.”.

21 **SEC. 803. AUTHORIZING REGISTRATION OF ALIENS ON**
22 **CRIMINAL PROBATION OR CRIMINAL PA-**
23 **ROLE.**

24 Section 263(a) of the Immigration and Nationality
25 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”

1 and inserting “(5) aliens who are or have been on criminal
2 probation or criminal parole within the United States, and
3 (6)”.

4 **SEC. 804. EXPANSION IN DEFINITION OF “AGGRAVATED**
5 **FELONY”.**

6 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
7 of the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(43)) is amended to read as follows:

9 “(43) The term ‘aggravated felony’ means—

10 “(A) murder;

11 “(B) any illicit trafficking in any con-
12 trolled substance (as defined in section 102 of
13 the Controlled Substances Act), including any
14 drug trafficking crime as defined in section
15 924(c)(2) of title 18, United States Code;

16 “(C) any illicit trafficking in any firearms
17 or destructive devices as defined in section 921
18 of title 18, United States Code, or in explosive
19 materials as defined in section 841(c) of title
20 18, United States Code;

21 “(D) any offense described in sections
22 1951 through 1963 of title 18, United States
23 Code;

24 “(E) any offense described in—

1 “(i) subsection (h) or (i) of section
2 842, title 18, United States Code or sub-
3 section (d), (e), (f), (g), (h), or (i) of sec-
4 tion 844 of title 18, United States Code
5 (relating to explosive materials offenses);

6 “(ii) paragraph (1), (2), (3), (4), or
7 (5) of section 922(g), subsection (j), (n),
8 (o), (p), or (r) of section 922, section
9 924(b), or section 924(h) of title 18,
10 United States Code (relating to firearms
11 offenses); or

12 “(iii) section 5861 of the Internal
13 Revenue Code of 1986 (relating to fire-
14 arms offenses);

15 “(F) any crime of violence (as defined in
16 section 16 of title 18, United States Code, not
17 including a purely political offense) for which
18 the term of imprisonment imposed (regardless
19 of any suspension of such imprisonment) is at
20 least 5 years;

21 “(G) any theft offense (including receipt of
22 stolen property) or any burglary offense, where
23 a sentence of 5 years’ imprisonment or more
24 may be imposed;

1 “(H) any offense described in section 875,
2 section 876, section 877, or section 1202 of
3 title 18, United States Code (relating to the de-
4 mand for or receipt of ransom);

5 “(I) any offense described in section 2251,
6 section 2251A or section 2252 of title 18,
7 United States Code (relating to child pornog-
8 raphy);

9 “(J) any offense described in section 1084
10 of title 18, United States Code, where a sen-
11 tence of 5 years’ imprisonment or more may be
12 imposed;

13 “(K) any offense relating to commercial
14 bribery, counterfeiting, forgery or trafficking in
15 vehicles whose identification numbers have been
16 altered, where a sentence of 5 years imprison-
17 ment or more may be imposed;

18 “(L) any offense—

19 “(i) relating to the owning, control-
20 ling, managing or supervising of a pros-
21 titution business;

22 “(ii) described in section 2421
23 through 2424 of title 18, United States
24 Code, for commercial advantage; or

1 “(iii) described in sections 1581
2 through 1585, or section 1588, of title 18,
3 United States Code (relating to peonage,
4 slavery, and involuntary servitude);

5 “(M) any offense relating to perjury or
6 subornation of perjury where a sentence of 5
7 years’ imprisonment or more may be imposed;

8 “(N) any offense described in—

9 “(i) section 793 (relating to gathering
10 or transmitting national defense informa-
11 tion), section 798 (relating to disclosure of
12 classified information), section 2153 (relat-
13 ing to sabotage) or section 2381 or section
14 2382 (relating to treason) of title 18,
15 United States Code; or

16 “(ii) section 421 of title 50, United
17 States Code (relating to protecting the
18 identity of undercover intelligence agents);

19 “(O) any offense—

20 “(i) involving fraud or deceit where
21 the loss to the victim or victims exceeded
22 \$200,000; or

23 “(ii) described in section 7201 of title
24 26, United States Code (relating to tax

1 evasion), where the tax loss to the Govern-
2 ment exceeds \$200,000;

3 “(P) any offense described in section
4 274(a)(1) of the Immigration and Nationality
5 Act (relating to alien smuggling) for the pur-
6 pose of commercial advantage;

7 “(Q) any violation of section 1546(a) of
8 title 18, United States Code (relating to docu-
9 ment fraud), for the purpose of commercial ad-
10 vantage; or

11 “(R) any offense relating to failing to ap-
12 pear before a court pursuant to a court order
13 to answer to or dispose of a charge of a felony,
14 where a sentence of 2 years or more may be im-
15 posed;

16 or any attempt or conspiracy to commit any such
17 act. Such term applies to offenses described in this
18 paragraph whether in violation of Federal or State
19 law and applies to such offenses in violation of the
20 laws of a foreign country for which the term of im-
21 prisonment was completed within the previous 15
22 years.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to all convictions entered before,
25 on, or after the date of enactment of this Act.

1 **SEC. 805. DEPORTATION PROCEDURES FOR CERTAIN**
2 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
3 **NENT RESIDENTS.**

4 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR
5 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
6 gration and Nationality Act (8 U.S.C. 1252a) is amended
7 by adding at the end the following:

8 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
9 MANENT RESIDENTS.—(1) Notwithstanding section 242,
10 and subject to paragraph (5), the Attorney General may
11 issue a final order of deportation against any alien de-
12 scribed in paragraph (2) whom the Attorney General de-
13 termines to be deportable under section 241(a)(2)(A)(iii)
14 (relating to conviction of an aggravated felony).

15 “(2) An alien is described in this paragraph if the
16 alien—

17 “(A) was not lawfully admitted for permanent
18 residence at the time that proceedings under this
19 section commenced, or

20 “(B) had permanent resident status on a condi-
21 tional basis (as described in section 216) at the time
22 that proceedings under this section commenced.

23 “(3) The Attorney General may delegate the author-
24 ity in this section to the Commissioner or to any District
25 Director of the Service.

1 “(4) No alien described in this section shall be eligible
2 for—

3 “(A) any relief from deportation that the Attor-
4 ney General may grant in his discretion; or

5 “(B) relief under section 243(h).

6 “(5) The Attorney General may not execute any order
7 described in paragraph (1) until 14 calendar days have
8 passed from the date that such order was issued, in order
9 that the alien has an opportunity to apply for judicial re-
10 view under section 106.”.

11 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the
12 Immigration and Nationality Act (8 U.S.C. 1105a) is
13 amended—

14 (1) in the first sentence of subsection (a), by in-
15 serting “or pursuant to section 242A” after “under
16 section 242(b)”;

17 (2) in subsection (a)(1) and subsection (a)(3),
18 by inserting “(including an alien described in section
19 242A)” after “aggravated felony”; and

20 (3) by adding at the end the following new sub-
21 section:

22 “(d) Notwithstanding subsection (c), a petition for
23 review or for habeas corpus on behalf of an alien described
24 in section 242A(c) may only challenge whether the alien

1 is in fact an alien described in such section, and no court
2 shall have jurisdiction to review any other issue.”.

3 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-
4 tion 242A of the Immigration and Nationality Act (8
5 U.S.C. 1252a) is amended as follows:

6 (1) In subsection (a)—

7 (A) by striking “(a) IN GENERAL.—” and
8 inserting “(b) DEPORTATION OF PERMANENT
9 RESIDENT ALIENS.—(1) IN GENERAL.”; and

10 (B) by inserting in the first sentence “per-
11 manent resident” after “correctional facilities
12 for”.

13 (2) In subsection (b)—

14 (A) by striking “(b) IMPLEMENTATION.—”
15 and inserting “(2) IMPLEMENTATION.—”; and

16 (B) by striking “respect to an” and insert-
17 ing “respect to a permanent resident”.

18 (3) By striking out subsection (c).

19 (4) In subsection (d)—

20 (A) by striking “(d) EXPEDITED PRO-
21 CEEDINGS.—(1)” and inserting “(3) EXPE-
22 DITED PROCEEDINGS.—(A)”;

23 (B) by inserting “permanent resident”
24 after “in the case of any”; and

25 (C) by striking “(2)” and inserting “(B)”.

1 (5) In subsection (e)—

2 (A) by striking “(e) REVIEW .—(1)” and
3 inserting “(4) REVIEW.—(A)”;

4 (B) by striking the second sentence; and

5 (C) by striking “(2)” and inserting “(B)”.

6 (6) By inserting after the section heading the
7 following new subsection:

8 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
9 convicted of an aggravated felony shall be conclusively pre-
10 sumed to be deportable from the United States.”.

11 (7) The heading of such section is amended to
12 read as follows:

13 “EXPEDITED DEPORTATION OF ALIENS CON-
14 VICTED OF COMMITTING AGGRAVATED
15 FELONIES”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to all aliens against whom deporta-
18 tion proceedings are initiated after the date of enactment
19 of this Act.

20 **SEC. 806. JUDICIAL DEPORTATION.**

21 (a) JUDICIAL DEPORTATION.—Section 242A of the
22 Immigration and Nationality Act (8 U.S.C. 1252a) is
23 amended by inserting at the end the following new sub-
24 section:

25 “(d) JUDICIAL DEPORTATION.—

1 “(1) AUTHORITY.—Notwithstanding any other
2 provision of this Act, a United States district court
3 shall have jurisdiction to enter a judicial order of de-
4 portation at the time of sentencing against an alien
5 whose criminal conviction causes such alien to be de-
6 portable under section 241(a)(2)(A)(iii) (relating to
7 conviction of an aggravated felony), if such an order
8 has been requested prior to sentencing by the United
9 States Attorney with the concurrence of the Com-
10 missioner.

11 “(2) PROCEDURE.—

12 “(A) The United States Attorney shall pro-
13 vide notice of intent to request judicial deporta-
14 tion promptly after the entry in the record of
15 an adjudication of guilt or guilty plea. Such no-
16 tice shall be provided to the court, to the alien,
17 and to the alien’s counsel of record.

18 “(B) Notwithstanding section 242B, the
19 United States Attorney, with the concurrence of
20 the Commissioner, shall file at least 20 days
21 prior to the date set for sentencing a charge
22 containing factual allegations regarding the
23 alienage of the defendant and satisfaction by
24 the defendant of the definition of aggravated
25 felony.

1 “(C) If the court determines that the de-
2 fendant has presented substantial evidence to
3 establish prima facie eligibility for relief from
4 deportation under section 212(c), the Commis-
5 sioner shall provide the court with a rec-
6 ommendation and report regarding the alien’s
7 eligibility for relief under such section. The
8 court shall either grant or deny the relief
9 sought.

10 “(D)(i) The alien shall have a reasonable
11 opportunity to examine the evidence against
12 him or her, to present evidence on his or her
13 own behalf, and to cross-examine witnesses pre-
14 sented by the Government.

15 “(ii) The court, for the purposes of deter-
16 mining whether to enter an order described in
17 paragraph (1), shall only consider evidence that
18 would be admissible in proceedings conducted
19 pursuant to section 242(b).

20 “(iii) Nothing in this subsection shall limit
21 the information a court of the United States
22 may receive or consider for the purposes of im-
23 posing an appropriate sentence.

24 “(iv) The court may order the alien de-
25 ported if the Attorney General demonstrates by

1 clear and convincing evidence that the alien is
2 deportable under this Act.

3 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-
4 DICIAL ORDER OF DEPORTATION.—

5 “(A)(i) A judicial order of deportation or
6 denial of such order may be appealed by either
7 party to the court of appeals for the circuit in
8 which the district court is located.

9 “(ii) Except as provided in clause (iii),
10 such appeal shall be considered consistent with
11 the requirements described in section 106.

12 “(iii) Upon execution by the defendant of
13 a valid waiver of the right to appeal the convic-
14 tion on which the order of deportation is based,
15 the expiration of the period described in section
16 106(a)(1), or the final dismissal of an appeal
17 from such conviction, the order of deportation
18 shall become final and shall be executed at the
19 end of the prison term in accordance with the
20 terms of the order.

21 “(B) As soon as is practicable after entry
22 of a judicial order of deportation, the Commis-
23 sioner shall provide the defendant with written
24 notice of the order of deportation, which shall
25 designate the defendant’s country of choice for

“(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).”.

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out “The” and inserting in lieu thereof “Except as provided in section 242A(d), the”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

19 **SEC. 807. RESTRICTING DEFENSES TO DEPORTATION FOR**
20 **CERTAIN CRIMINAL ALIENS.**

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking out “has served for such felony or felonies” and all that follows through the period

1 and inserting in lieu thereof “has been sentenced for such
2 felony or felonies to a term of imprisonment of at least
3 5 years: *Provided*, That the time for appealing such con-
4 viction or sentence has expired and the sentence has be-
5 come final.”.

6 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
7 TATION.—Section 243(h)(2) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

9 (1) striking out the final sentence and inserting
10 in lieu thereof the following new subparagraph:

11 “(E) the alien has been convicted of an ag-
12 gravated felony.”; and

13 (2) striking out the “or” at the end of subpara-
14 graph (C) and inserting “or” at the end of subpara-
15 graph (D).

16 **SEC. 808. ENHANCING PENALTIES FOR FAILING TO DE-**
17 **PART, OR REENTERING, AFTER FINAL ORDER**
18 **OF DEPORTATION.**

19 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
20 migration and Nationality Act (8 U.S.C. 1252(e)) is
21 amended—

22 (1) by striking out “paragraph (2), (3), or (4)
23 of” the first time it appears, and

24 (2) by striking out “shall be imprisoned not
25 more than ten years” and inserting in lieu thereof,

1 “shall be imprisoned not more than two years, or
2 shall be imprisoned not more than ten years if the
3 alien is a member of any of the classes described in
4 paragraph (2), (3), or (4) of section 241(a).”.

5 (b) REENTRY.—Section 276(b) of the Immigration
6 and Nationality Act (8 U.S.C. 1326(b)) is amended—

7 (1) in paragraph (1), by (A) inserting after
8 “commission of” the following: “three or more mis-
9 demeanors or”, and (B) striking out “5” and insert-
10 ing in lieu thereof “10”,

11 (2) in paragraph (2), by striking out “15” and
12 inserting in lieu thereof “20”, and

13 (3) by adding at the end the following sentence:
14 “For the purposes of this subsection, the term “de-
15 portation” shall include any agreement where an
16 alien stipulates to deportation during a criminal trial
17 under either Federal or State law.”.

18 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
19 TATION ORDER.—Section 276 of the Immigration and Na-
20 tionality Act (8 U.S.C. 1326) is amended by inserting
21 after subsection (b) the following new subsection:

22 “(c) In any criminal proceeding under this section,
23 no alien may challenge the validity of the deportation
24 order described in subsection (a)(1) of subsection (b) un-
25 less the alien demonstrates—

1 “(1) that the alien exhausted the administrative
2 remedies (if any) that may have been available to
3 seek relief against such order,

4 “(2) that the deportation proceedings at which
5 such order was issued improperly deprived the alien
6 of the opportunity for judicial review, and

7 “(3) that the entry of such order was fun-
8 damentally unfair.”.

9 **SEC. 809. MISCELLANEOUS AND TECHNICAL CHANGES.**

10 (a) FORM OF DEPORTATION HEARINGS.—The sec-
11 ond sentence of section 242(b) of the Immigration and
12 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
13 ing before the period the following: “, except that nothing
14 in this subsection shall preclude the Attorney General
15 from authorizing proceedings by electronic or telephonic
16 media (with or without the consent of the alien) or, where
17 waived or agreed to by the parties, in the absence of the
18 alien.”.

19 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
20 REQUIREMENTS.—No amendment made by this Act and
21 nothing in section 242(i) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1252(ii)), shall be construed to create
23 any right or benefit, substantive or procedural, which is
24 legally enforceable by any party against the United States,
25 its agencies, its officers or any other person.

1 **SEC. 810. AUTHORIZATION OF APPROPRIATIONS FOR**
2 **CRIMINAL ALIEN INFORMATION SYSTEM.**

3 There is authorized to be appropriated to carry out
4 section 242(a)(3)(A) of the Immigration and Nationality
5 Act, \$5,000,000 for fiscal year 1994 and \$2,000,000 for
6 each of the fiscal years 1995, 1996, 1997, and 1998.

7 **TITLE IX—ENHANCED GUN PENALTIES**

8 **SEC. 901. ENHANCED PENALTIES FOR PERSONS CON-**
9 **VICTED OF USING OR CARRYING A FIREARM**
10 **DURING AND IN RELATION TO A FELONY.**

11 (a) IN GENERAL.—Section 924(c) of title 18, United
12 States Code, is amended to read as follows:

13 “(c) Whoever, during and in relation to a crime that
14 is a felony (including a felony which provides for an en-
15 hanced punishment if committed by the use of a deadly
16 or dangerous weapon or device) for which he may be pros-
17 ecuted in a court of the United States, uses or carries a
18 firearm, shall, in addition to the punishment provided for
19 such crime, be sentenced to imprisonment for 5 years, and
20 if the firearm is a short-barreled rifle or short-barreled
21 shotgun, to imprisonment for 10 years, and if the firearm
22 is a machinegun or destructive device, or is equipped with
23 a firearm silencer or firearm muffler, to imprisonment for
24 30 years. In the case of the 2nd or subsequent conviction
25 of the person under this subsection, the person shall be
26 sentenced to life imprisonment without release. Notwith-

1 standing any other provision of law, a term of imprison-
 2 ment imposed under this subsection shall not run concur-
 3 rently with any other term of imprisonment including that
 4 imposed for the crime in which the firearm was used or
 5 carried.”.

6 (b) CONFORMING AMENDMENT.—Section 101(a)(43)
 7 of the Immigration and Nationality Act (8 U.S.C.
 8 1101(a)(43)) is amended by inserting “(as in effect imme-
 9 diately before the enactment of the Gun Crime Control
 10 Act)” after “18” the 1st place such term appears.

11 **SEC. 902. MANDATORY MINIMUM SERVICE FOR UNLAWFUL**
 12 **POSSESSION OF A FIREARM BY CONVICTED**
 13 **FELON, FUGITIVE FROM JUSTICE, ADDICT OR**
 14 **UNLAWFUL USER OF CONTROLLED SUB-**
 15 **STANCE, OR TRANSFEROR OR RECEIVER OF**
 16 **STOLEN FIREARM.**

17 Section 924(a) of title 18, United States code, is
 18 amended by adding at the end the following:

19 “(6) Whoever knowingly possesses a firearm in viola-
 20 tion of paragraph (1), (2), or (3) of section 922(g), or
 21 in violation of subsection (i) of (j), shall be imprisoned
 22 not less than 5 years. Notwithstanding any other provision
 23 of law, the court shall not place on probation or suspend
 24 the sentence of any person convicted under this para-
 25 graph, nor shall the term of imprisonment imposed under

1 this paragraph run concurrently with any other term of
2 imprisonment imposed under any other provision of law.”.

3 **SEC. 903. INCREASE IN GENERAL PENALTY FOR VIOLATION**
4 **OF FEDERAL FIREARMS LAWS.**

5 Section 924(a)(1) of title 18 United States Code, is
6 amended—

7 (1) by striking “not more than \$5,000” and in-
8 serting “under this title”; and

9 (2) by striking “five” and inserting “10”.

10 **TITLE X—VIOLENT CRIME REDUCTION**
11 **TRUST FUND**

12 **SEC. 1001. CREATION OF VIOLENT CRIME REDUCTION**
13 **TRUST FUND.**

14 (a) VIOLENT CRIME REDUCTION TRUST FUND.—
15 There is established a separate account in the Treasury,
16 known as the “Violent Crime Reduction Trust Fund” (re-
17 ferred to in this section as the “Fund”) into which shall
18 be transferred, in accordance with subsection (b), savings
19 realized from implementation of section 5 of the Federal
20 Workforce Restructuring Act of 1994 (5 U.S.C. 3101
21 note; Public Law 103–226).

22 (b) TRANSFERS INTO THE FUND.—On the first day
23 of the following fiscal years (or as soon thereafter as pos-
24 sible for fiscal year 1995), such sums as may be necessary

1 shall be transferred from the general fund to the Fund
2 for fiscal year 1995, 1996, 1997, 1998.

3 (c) APPROPRIATIONS FROM THE FUND.—(1)
4 Amounts in the Fund may be appropriated exclusively for
5 the purposes authorized in this Act and for those expenses
6 authorized by any Act enacted before this Act that are
7 expressly qualified for expenditure from the Fund.

8 (2) Amounts appropriated under paragraph (1) and
9 outlays flowing from such appropriations shall not be
10 taken into account for purposes of any budget enforce-
11 ment procedures under the Balanced Budget and Emer-
12 gency Deficit Control Act of 1985 except section 251A of
13 that Act as added by subsection (g), or for purposes of
14 section 605(b) of the Congressional Budget Act of 1974.
15 Amounts of new budget authority and outlays under para-
16 graph (1) that are included in concurrent resolutions on
17 the budget shall not be taken into account for purposes
18 of sections 601(b), 606(b), and 606(c) of the Congres-
19 sional Budget Act of 1974, or for purposes of section 24
20 of House Concurrent Resolution 218 (One Hundred Third
21 Congress).

22 (d) LISTING OF THE FUND AMONG GOVERNMENT
23 TRUST FUNDS.—Section 1321(a) of title 31, United
24 States Code, is amended by inserting at the end the follow-
25 ing new paragraph:

1 “(91) VIOLENT CRIME REDUCTION TRUST
2 FUND.”.

3 (e) REQUIREMENT FOR THE PRESIDENT TO REPORT
4 ANNUALLY ON THE STATUS OF THE TRUST FUND.—Sec-
5 tion 1105(a) of title 31, United States Code, is amended
6 by adding at the end the following new paragraphs:

7 “(30) information about the Violent Crime Re-
8 duction Trust Fund, including a separate statement
9 of amounts in that Trust Fund.

10 “(31) an analysis displaying, by agency, pro-
11 posed reductions in full-time equivalent positions
12 compared to the current year’s level in order to com-
13 ply with section 5 of the Federal Workforce Restruc-
14 turing Act of 1994.”.

15 (f) ALLOCATION AND SUBALLOCATION OF AMOUNTS
16 IN THE FUNDS.—

17 (1) IN GENERAL.—Section 602(a) of the Con-
18 gressional Budget Act of 1974 is amended—

19 (A) in paragraph (1)(A) by striking ‘and’
20 at the end of clause (ii), by striking the semi-
21 colon and inserting a comma at the end of
22 clause (iii), and by adding after the clause (iii)
23 the following:

24 “(iv) new budget authority from the
25 Violent Crime Reduction Trust Fund, and

1 “(v) outlays from the Violent Crime
2 Reduction Trust Fund;”;

3 (B) in paragraph (2) by striking ‘and’ at
4 the end of subparagraph (B) and by adding
5 after subparagraph (C) the following:

6 “(D) new budget authority from the Vio-
7 lent Crime Reduction Trust Fund; and

8 “(E) outlays from the Violent Crime Re-
9 duction Trust Fund;”;

10 (C) by adding at the end the following new
11 paragraph:

12 “(4) NO DOUBLE COUNTING.—Amounts allo-
13 cated among committees under clause (iv) or (v) of
14 paragraph (1)(A) or under subparagraph (D) or (E)
15 of paragraph (2) shall not be included within any
16 other allocation under that paragraph.”.

17 (2) FISCAL YEAR 1995.—The chairman of the
18 Committee on the Budget shall submit to the House
19 of Representatives or the Senate, as the case may
20 be, appropriately revised allocations under clauses
21 (iv) and (v) of paragraph (1)(A) or subparagraphs
22 (D) and (E) of paragraph (2) of section 602(a) of
23 the Congressional Budget Act of 1974 for fiscal year
24 1995 to carry out subsection (b)(1).

1 **SEC. 1002. EXTENSION OF AUTHORIZATIONS OF APPRO-**
2 **PRIATIONS FOR FISCAL YEARS FOR WHICH**
3 **THE FULL AMOUNT AUTHORIZED IS NOT AP-**
4 **PROPRIATED.**

5 If, in making an appropriation under any provision
6 of this Act or amendment made by this Act that author-
7 izes the making of an appropriation for a certain purpose
8 for a certain fiscal year in a certain amount, the Congress
9 makes an appropriation for that purpose for that fiscal
10 year in a lesser amount, that provision or amendment shall
11 be considered to authorize the making of appropriations
12 for that purpose for later fiscal years in an amount equal
13 to the difference between the amount authorized to be ap-
14 propriated and the amount that has been appropriated.

15 **SEC. 1003. FLEXIBILITY IN MAKING OF APPROPRIATIONS.**

16 (a) **FEDERAL LAW ENFORCEMENT.**—In the making
17 of appropriations under any provision of this Act or
18 amendment made by this Act that authorizes the making
19 of an appropriation for a Federal law enforcement pro-
20 gram for a certain fiscal year in a certain amount out of
21 the Violent Crime Reduction Trust Fund, not to exceed
22 10 percent of that amount is authorized to be appro-
23 priated for that fiscal year for any other Federal law en-
24 forcement program for which appropriations are author-
25 ized by any other Federal law enforcement provision of
26 this Act or amendment made by this Act. The aggregate

1 reduction in the authorization for any particular Federal
2 law enforcement program may not exceed 10 percent of
3 the total amount authorized to be appropriated from the
4 Violent Crime Reduction Trust Fund for that program in
5 this Act or amendment made by this Act.

6 (b) STATE AND LOCAL LAW ENFORCEMENT.—In the
7 making of appropriations under any provision of this Act
8 or amendment made by this Act that authorizes the mak-
9 ing of an appropriation for a State and local law enforce-
10 ment program for a certain fiscal year in a certain amount
11 out of the Violent Crime Reduction Trust Fund, not to
12 exceed 10 percent of that amount is authorized to be ap-
13 propriated for that fiscal year for any other State and
14 local law enforcement program for which appropriations
15 are authorized by any other State and local law enforce-
16 ment provision of this Act or amendment made by this
17 Act. The aggregate reduction in the authorization for any
18 particular State and local law enforcement program may
19 not exceed 10 percent of the total amount authorized to
20 be appropriated from the Violent Crime Reduction Trust
21 Fund for that program in this Act or amendment made
22 by this Act.

1 **TITLE XI—MANDATORY LIFE IMPRISON-**
2 **MENT FOR PERSONS CONVICTED OF**
3 **CERTAIN FELONIES**

4 **SEC. 1101. MANDATORY LIFE IMPRISONMENT FOR PER-**
5 **SONS CONVICTED OF CERTAIN FELONIES.**

6 Section 3559 of title 18, United States Code, is
7 amended—

8 (1) in subsection (b), by striking “An” and in-
9 serting “Except as provided in subsection (c), an” in
10 lieu thereof; and

11 (2) by adding the following new subsection at
12 the end:

13 “(c) IMPRISONMENT OF CERTAIN VIOLENT FEL-
14 ONS.—

15 “(1) MANDATORY LIFE IMPRISONMENT.—Not-
16 withstanding any other provision of law, a person
17 who is convicted in a court of the United States of
18 a serious violent felony shall be sentenced to life im-
19 prisonment if—

20 “(A) the person has been convicted (and
21 those convictions have become final) on sepa-
22 rate prior occasions in a court of the United
23 States or of a State of—

24 “(i) 2 or more serious violent felonies;

25 or

1 “(ii) one or more serious violent felo-
2 nies and one or more serious drug offenses;
3 and

4 “(B) each serious violent felony or serious
5 drug offense used as a basis for sentencing
6 under this subsection, other than the first, was
7 committed after the defendant’s conviction of
8 the preceding serious violent felony or serious
9 drug offense.

10 “(2) DEFINITIONS.—For purposes of this sub-
11 section—

12 “(A) the term ‘assault with intent to com-
13 mit rape’ means an offense that has as its ele-
14 ments engaging in physical contact by which a
15 person intentionally places another person in
16 fear of aggravated sexual abuse or sexual abuse
17 (as described in sections 2241 and 2242);

18 “(B) the term ‘arson’ means an offense
19 that has as its elements maliciously damaging
20 or destroying any building, inhabited structure,
21 vehicle, vessel, or real property by means of fire
22 or an explosive;

23 “(C) the term ‘extortion’ means an offense
24 that has as its elements the extraction of any-
25 thing of value from another person by threaten-

1 ing or placing that person in fear of injury to
2 any person or kidnapping of any person;

3 “(D) the term ‘firearms use’ means an of-
4 fense that has as its elements those described
5 in section 924(c) or 929(a), if the firearm was
6 brandished, discharged, or otherwise used as a
7 weapon and the crime of violence or drug traf-
8 ficking crime during and relation to which the
9 firearm was used was subject to prosecution in
10 a court of the United States or a court of a
11 State, or both;

12 “(E) the term ‘kidnapping’ means an of-
13 fense that has as its elements the abduction, re-
14 straining, confining, or carrying away of an-
15 other person by force or threat of force;

16 “(F) the term ‘serious violent felony’
17 means—

18 “(i) a Federal or State offense, by
19 whatever designation and wherever com-
20 mitted, consisting of murder (as described
21 in section 1111); manslaughter other than
22 involuntary manslaughter (as described in
23 section 1112); assault with intent to com-
24 mit murder (as described in section
25 113(a)); assault with intent to commit

1 rape; aggravated sexual abuse and sexual
2 abuse (as described in sections 2241 and
3 2242); abusive sexual contact (as described
4 in sections 2244 (a)(1) and (a)(2)); kid-
5 napping; aircraft piracy (as described in
6 section 46502 of title 49); robbery (as de-
7 scribed in section 2111, 2113, or 2118);
8 carjacking (as described in section 2119);
9 extortion; arson; firearms use; or attempt,
10 conspiracy, or solicitation to commit any of
11 the above offenses; and

12 “(ii) any other offense punishable by
13 a maximum term of imprisonment of 10
14 years or more that has as an element the
15 use, attempted use, or threatened use of
16 physical force against the person of an-
17 other or that, by its nature, involves a sub-
18 stantial risk that physical force against the
19 person of another may be used in the
20 course of committing the offense;

21 “(G) the term ‘State’ means a State of the
22 United States, the District of Columbia, and a
23 commonwealth, territory, or possession of the
24 United States; and

1 “(H) the term ‘serious drug offense’
2 means—

3 “(i) an offense that is punishable
4 under section 401(b)(1)(A) or 408 of the
5 Controlled Substances Act (21 U.S.C.
6 841(b)(1)(A), 848) or section
7 1010(b)(1)(A) of the Controlled Sub-
8 stances Import and Export Act (21 U.S.C.
9 960(b)(1)(A)); or

10 “(ii) an offense under State law that,
11 had the offense been prosecuted in a court
12 of the United States would have been pun-
13 ished under section 401(b)(1)(A) or 408 of
14 the Controlled Substances Act (21 U.S.C.
15 841(b)(1)(A), 848) or section
16 1010(b)(1)(A) of the Controlled Sub-
17 stances Import and Export Act (21 U.S.C.
18 960(b)(1)(A)).

19 “(3) NONQUALIFYING FELONIES.—

20 “(A) ROBBERY IN CERTAIN CASES.—Rob-
21 bery, an attempt, conspiracy, or solicitation to
22 commit robbery; or an offense described in
23 paragraph (2)(F)(ii) shall not serve as a basis
24 for sentencing under this subsection if the de-

1 fendant establishes by clear and convincing evi-
2 dence that—

3 “(i) no firearm or other dangerous
4 weapon was used in the offense and no
5 threat of use of a firearm or other dan-
6 gerous weapon was involved in the offense;
7 and

8 “(ii) the offense did not result in
9 death or serious bodily injury (as defined
10 in section 1365) to any person.

11 “(B) ARSON IN CERTAIN CASES.—Arson
12 shall not serve as a basis for sentencing under
13 this subsection if the defendant establishes by
14 clear and convincing evidence that—

15 “(i) the offense posed no threat to
16 human life; and

17 “(ii) the defendant reasonably believed
18 the offense posed no threat to human life.

19 “(4) INFORMATION FILED BY UNITED STATES
20 ATTORNEY.—The provisions of section 411(a) of the
21 Controlled Substances Act (21 U.S.C. 851(a)) shall
22 apply to the imposition of sentence under this sub-
23 section.

1 “(5) RULE OF CONSTRUCTION.—This sub-
2 section shall not be construed to preclude imposition
3 of the death penalty.

4 “(6) SPECIAL PROVISION FOR INDIAN COUN-
5 TRY.—No person subject to criminal jurisdiction of
6 an Indian tribal government shall be subject to this
7 subsection for any offense for which Federal juris-
8 diction is solely predicated on Indian country (as de-
9 fined in section 1151) and which occurs within the
10 boundaries of such Indian country unless the gov-
11 erning body of the tribe has elected that this sub-
12 section have effect over land and persons subject to
13 the criminal jurisdiction of the tribe.

14 “(7) RESENTENCING UPON OVERTURNING OF
15 PRIOR CONVICTION.—If the conviction for a serious
16 violent felony or serious drug offense that was a
17 basis for sentencing under this subsection is found,
18 pursuant to any appropriate State or Federal proce-
19 dure, to be unconstitutional or is vitiated on the ex-
20 plicit basis of innocence, or if the convicted person
21 is pardoned on the explicit basis of innocence, the
22 person serving a sentence imposed under this sub-
23 section shall be resentenced to any sentence that was
24 available at the time of the original sentencing.”.

1 **SEC. 1102. LIMITED GRANT OF AUTHORITY TO BUREAU OF**
2 **PRISONS.**

3 Section 3582(c)(1)(A) of title 18, United States
4 Code, is amended—

5 (1) so that the margin of the matter starting
6 with “extraordinary” and ending with “reduction”
7 the first place it appears is indented an additional
8 two ems;

9 (2) by inserting a one-em dash after “that” the
10 second place it appears;

11 (3) by inserting a semicolon after “reduction”
12 the first place it appears;

13 (4) by indenting the first line of the matter re-
14 ferred to in paragraph (1) and designating that mat-
15 ter as clause (i); and

16 (5) by inserting after such matter the following:

17 “(ii) the defendant is at least 70 years
18 of age, has served at least 30 years in pris-
19 on, pursuant to a sentence imposed under
20 section 3559(c), for the offense or offenses
21 for which the defendant is currently im-
22 prisoned, and a determination has been
23 made by the Director of Prisons that the
24 defendant is not a danger to the safety of

1 any other person or the community; as
2 provided under section 3142(g);”.

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HR 5008 IH——2

HR 5008 IH——3

HR 5008 IH——4

HR 5008 IH——5

HR 5008 IH——6